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08/930,735	09/19/2002	Angelika Semsch	0190-US/P	3405	
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Lerner & Greenberg PO Box 2480 Hollywood, FL 33022-2480			CRANMER, LAURIE K		
			ART UNIT	PAPER NUMBER	
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			DATE MAILED: 10/16/2003	3	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Caurie K. Crammer	<u> بود.</u>		Application No.	Applicant(s)				
Laurie K. Cranmer 3938	Office Action Summary		08/930,735	SEMSCH ET AL.				
The MAILNG DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Educations of them may be available under the growtens of 37 CPR 1.136(d), in no event, however, may a reply be firmely filled Educations of them may be available under the growtens of 37 CPR 1.136(d), in no event, however, may a reply be firmely filled If the period for reply specified above is less than thirty (30) days, a reply whith the studiety replication to reply will, by adultation price of the communication of the period for reply specified above, the maximum studious period will apply and will eaple fix (6) MONTHS from the maining date of his communication, even if the maining date of his communication. 1) Status **Responsive to communication(s) filled on 22 September 2003 2) This action is FINAL. 2b) ↑ This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. **Disposition of Claims** 4) Claim(s) 1, 2nd 3-9 is/are pepting in the application. 5) Claim(s) 1, 2nd 3-9 is/are rejected. 7) Claim(s) 2, 2 is/are objected to by the Examiner. 10) The specification is objected to by the Examiner. 4) Clai			Examiner	Art Unit				
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Drawings

The drawings were received on 9/29/03. These drawings are acceptable.

Claim Objections

Claim 9 is objected to because of the following informalities: In line 1 "Device" should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- 2. Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen in view of Monti et al.

Jensen teaches a device for limiting the tilting of the head of a seat occupant including a plurality of head-support elements 15 in the form of an elongated cushion-shaped element which rest on the shoulders of the seat occupant in the intended use position (Fig. 2), a connecting section 25 for guiding over and beyond the backrest of

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the seat, and at least one weight element (col. 1, lines 14-16, and col. 2, lines 13-17) substantially as claimed except for the head-support elements completely surrounding the neck of the seat occupant and having connecting devices which permit a releasable connection of the cushion-shaped element to one another.

The patent to Monti et al teaches head support elements 47, 49 which completely surround the neck of the seat occupant and connecting devices 51, 53, 55, 57, 59 which permit a releasable connection of the cushion-shaped elements to one another to be old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the Jensen device such that it had support elements which completely surrounded the neck of the occupant and also had releasable connecting devices as taught to be old by Monti et al thereby providing the obvious advantage of greater comfort for the user.

Allowable Subject Matter

Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach a head restraining device including, inter alia, a connecting section formed by two flexible support elements and having a releasable connection between parts of the connecting section, and which have a variable effective dimension which is adjusted by an adjustment mechanism or a variable connection device.

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R sponse to Arguments

Applicant's arguments with respect to claims 1 and 3-6 have been considered but are most in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie K. Cranmer whose telephone number is 703-308-2115. The examiner can normally be reached on T-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Cuomo can be reached on 703-308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

Laurie K. Cranmer Primary Examiner Art Unit 3636

LKC